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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,994	10/13/2000	Jagannadh V. Satyavolu	11936.5US11	1018
23552	7590	03/24/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			FORTUNA, JOSE A	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,994

Applicant(s)

SATYAVOLU ET AL.

Examiner

José A Fortuna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Drawings

1. The drawings were received on December 29, 03. These drawings are acceptable.

Claim Objections

2. Claim 1 is objected to because of the following informalities: the phrase "at last," on line 4 of claim 1, should be changed to --at least--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- Claims 1-9 are rejected under 35 USC §102(b) as being anticipated by Kickle et al. This rejection is set forth in the prior Office action mailed on March 21, 2003.

Claims 1 and 7-9 are rejected under 35 USC §102(b) as being anticipated by Ramaswamy. This rejection is set forth in the prior Office action mailed on March 21, 2003.

Claims 1-10 are rejected under 35 USC §102(e) as being anticipated by Marsland. This rejection is set forth in the prior Office action mailed on March 21, 2003

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 10 is rejected under 35 USC §103(a) over Kickle et al. in view of Ramaswamy. This rejection is set forth in the prior Office action mailed on March 21, 2003.

Response to Arguments

6. Applicant's arguments filed August 22, 2003 and December 29, 2003 have been fully considered but they are not persuasive.

Regarding the rejection over Kickle et al. applicants presented an affidavit under 37 C.F.R. 1.132, presenting data indicating that the amount/percentage of cellulose on Kickle et al. invention is under the requirements of the claims, i.e., under 50%. This has been carefully reviewed and it is unconvincing, because the experiments were not commensurable in scope with the reference. Applicants has chosen example II of the reference to show that the cellulose content is out the claimed range; however, there are other examples in which the same seed hulls were acid treated but with a weaker acid, e.g., example III. One would expect that the cellulose content would be greater in this case. Note also that a reference is not limited by its examples and Kickle et al. teach other seed hulls that can be acid treated.

Regarding rejection over Ramaswamy, applicants argue that the reference does not teach a fiber as claimed, since it has not been acid treated as claimed, i.e., the acid step indicated by the reference is for neutralizing the bleaching of the

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fibers. This is not convincing, because the claims just require an acid treatment, they, the claims, do not recite where and even for what the acid treatment is carried out. Therefore, the reference still reads on the claims.

Regarding the arguments over Marsland, the examiner contends that the fibers disclosed by Marsland would have all the characteristics of the fibers as claimed, since the same process is performed to the same type of fibers. Marsland statement of the product having primary lignin and cellulose does not teach away from the claims, because if the product has a content of hemicellulose between 5 to 10% and the rest of cellulose and lining, then the product contains primary lignin and cellulose.

Regarding 103(a) rejection over Kickle et al. in view of Ramaswamy, applicants argue that the product of the primary reference is not the same as claimed, in view of the Declaration of Dr. Satyavolu and therefore, combining the teachings would not teach the product of claim 10, since claim 10 is dependent on claim 1. This is unconvincing for the reasons indicated above, see arguments regarding Kickle et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

Conclusion


7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


José A Fortuna
Primary Examiner
Art Unit 1731

JAF